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August 2, 2004

Mary L. Cottrell, Secretary  
Department of Telecommunication and Energy  
One South Station, 2<sup>nd</sup> Floor  
Boston, MA 02202

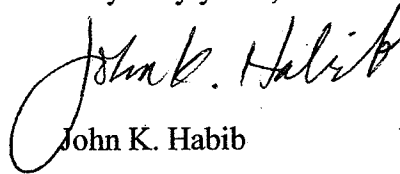
Re: Cambridge Electric Light Company/Commonwealth Electric Company,  
D.T.E. 04-60

Dear Secretary Cottrell:

Enclosed please find the responses of Cambridge Electric Light Company ("Cambridge") and Commonwealth Electric Company ("Commonwealth"), each d/b/a NSTAR Electric ("NSTAR Electric" or the "Companies") to discovery questions asked by the Attorney General in the above-referenced proceeding, as listed on the following Discovery Log.

Thank you for your attention to this matter.

Very truly yours,

  
John K. Habib

Enclosures

cc: Service List  
Joan Foster Evans, Hearing Officer (2)  
Colleen McConnell, Assistant Attorney General (2)

# LOG OF RESPONSES FILED

D.T.E. 04-60

August 2, 2004

Response	Status	Other
DTE-1-1	Filed July 22, 2004	Attachment
DTE-1-2	Filed July 22, 2004	
DTE-1-3	Filed July 22, 2004	
DTE-1-4	Filed July 22, 2004	Attachments DTE-1-4 (a) and (b)- Public CD-ROM (REVISED)
DTE-1-5	Filed July 22, 2004	Attachments DTE-1-5 (a) and (b)- Public CD-ROM (REVISED)
DTE-1-6	Filed July 22, 2004	
DTE-1-7	Filed July 22, 2004	
DTE-1-8 <b>CONFIDENTIAL</b>	Filed July 22, 2004	
DTE-1-9	Filed July 22, 2004	
DTE-1-10	Filed July 22, 2004	Attachments - <b>CONFIDENTIAL</b> CD-ROM (REVISED)
DTE-1-11	Filed July 22, 2004	Attachments - <b>CONFIDENTIAL</b> CD-ROM (REVISED)
DTE-1-12	Filed July 22, 2004	
DTE-1-13	Filed July 22, 2004	
DTE-1-14	Filed July 22, 2004	
DTE-1-15	Filed July 22, 2004	
DTE-1-16	Filed July 22, 2004	
DTE-1-17	Filed July 22, 2004	
DTE-1-18	Filed July 22, 2004	
DTE-1-19	Filed July 22, 2004	
DTE-1-20	Filed July 22, 2004	
DTE-1-21	Filed July 22, 2004	
DTE-1-22	Filed July 22, 2004	
DTE-1-23	Filed July 22, 2004	
DTE-1-24	Filed July 22, 2004	
DTE-1-25	Filed July 22, 2004	
DTE-1-26	Filed July 22, 2004	Attachment
DTE-1-27	Filed July 22, 2004	
DTE-1-28	Filed July 22, 2004	
DTE-1-29	Filed July 22, 2004	
DTE-1-30	Filed July 22, 2004	
DTE-1-31	Filed July 22, 2004	

Response	Status	Other
DTE-1-32	Filed July 22, 2004	Attachment- <b>CONFIDENTIAL</b> – CD-ROM (REVISED)
DTE-1-32 (Supp)	Filed July 27, 2004	Attachment
DTE-1-33	Filed July 22, 2004	
DTE-1-34	Filed July 22, 2004	
DTE-1-35	Filed July 22, 2004	Attachment
AG-1-1	Filed July 22, 2004	Attachments AG-1-1 (a) through (v)
AG-1-2	Filed July 22, 2004	Attachment AG-1-2- <b>CONFIDENTIAL</b> CD-ROM (REVISED)
AG-1-3	Filed July 22, 2004	Attachments AG-1-3(a) and (b)
AG-1-4 <b>CONFIDENTIAL</b>	Filed July 22, 2004	Attachment AG-1-4 - <b>CONFIDENTIAL BULK</b> CD-ROM (REVISED)
		Attachment AG-1-5-(Public Provided in Hard Copy)
AG-1-5	Filed July 26, 2004	Attachment AG-1-5 - <b>CONFIDENTIAL BULK</b> CD-ROM
AG-1-6	Filed July 22, 2004	
AG-1-7	Filed July 22, 2004	Attachment AG-1-7- <b>CONFIDENTIAL</b> CD-ROM (REVISED)
AG-1-8 <b>CONFIDENTIAL</b>	Filed July 22, 2004	Attachment AG-1-8 - <b>CONFIDENTIAL BULK</b> CD-ROM (REVISED)
AG-1-9	Filed July 22, 2004	
AG-1-10	Filed July 22, 2004	Attachment AG-10
AG-1-11	Filed July 22, 2004	
AG-1-12	Filed July 22, 2004	Attachment AG-1-12(a) and (b)
DTE-2-1	Filed Herewith	Attachment DTE-2-1
DTE-2-2		
DTE-2-3		
DTE-2-4		
DTE-2-5	Filed Herewith	
DTE-2-6	Filed Herewith	
DTE-2-7	Filed Herewith	
DTE-2-8	Filed Herewith	
DTE-2-9	Filed Herewith	
DTE-2-10	Filed Herewith	
AG-2-1	Filed July 30, 2004	
AG-2-2	Filed July 30, 2004	Attachment AG-2-2
AG-2-3	Filed July 30, 2004	Attachment AG-2-2(a) <b>CONFIDENTIAL</b> Attachment AG-2-3(b) <b>CONFIDENTIAL</b>
AG-2-4	Filed July 30, 2004	Attachment AG-2-4 <b>CONFIDENTIAL</b>
AG-2-5	Filed July 28, 2004	
AG-2-6	Filed July 28, 2004	
AG-2-7	Filed July 28, 2004	

<b>Response</b>	<b>Status</b>	<b>Other</b>
AG-2-8	Filed July 30, 2004	
AG-2-9	Filed July 28, 2004	
AG-2-10	Filed July 30, 2004	
AG-2-11	Filed July 28, 2004	
AG-2-12	Filed July 30, 2004	
AG-2-13	Filed July 30, 2004	
AG-2-14	Filed July 30, 2004	
AG-2-15	Filed July 30, 2004	
AG-2-16	Filed July 30, 2004	
AG-2-17	Filed July 30, 2004	
AG-2-18	Filed July 28, 2004	
AG-2-19	Filed July 28, 2004	
AG-2-20	Filed Herewith	Attachment AG-2-20 <b>CONFIDENTIAL BULK</b> CD-ROM
AG-2-21	Filed July 30, 2004	Attachment AG-2-21 CD-ROM <b>BULK</b>
AG-2-22	Filed July 30, 2004	
AG-2-23	Filed July 30, 2004	
AG-2-24	Filed July 30, 2004	
AG-2-26	Filed July 30, 2004	
AG-2-27	Filed July 30, 2004	Attachment AG-2-27 CD-ROM <b>CONFIDENTIAL</b>
AG-3-1	Filed Herewith	Attachment AG-3-1 <b>CONFIDENTIAL</b>
AG-3-2	Filed Herewith	Attachment AG-3-2 <b>CONFIDENTIAL BULK</b>
AG-3-3	Filed Herewith	
AG-3-4	Filed Herewith	
AG-3-5		
AG-3-6	Filed Herewith	Attachment AG-3-6
AG-3-7		
AG-3-8	Filed Herewith	Attachments AG-3-8(a) through (c)
AG-3-9	Filed Herewith	Attachment AG-3-9
AG-3-10		
AG-3-11		
AG-3-12	Filed Herewith	
AG-3-13	Filed Herewith	
AG-3-14		
AG-3-15	Filed Herewith	
AG-3-16	Filed Herewith	
AG-3-17	Filed Herewith	
AG-3-18	Filed Herewith	

Information Request AG-2-20

A copy of the "documentation CD-ROM that include[s] all of the PPA Entitlement agreements and amendments as well as the associated invoices and [the electronic contract evaluation spreadsheet for each of the PPA Entitlements. See Hevert Testimony, p. 14, lines 3-6.

Response

Please refer to the enclosed CD-ROM (Attachment AG-2-20 **CONFIDENTIAL**).

Please note that the information provided herein is confidential, proprietary and competitively sensitive and is being provided subject to a Non-Disclosure Agreement between NSTAR Electric and the Attorney General and a forthcoming Motion for Protective Treatment of responses to the Department's and the Attorney General's Second Set of Discovery in this proceeding.

Information Request DTE-2-1

Refer to Exh. NSTAR-CAM-GOL-2, at 1 of 1. Please provide a worksheet detailing how the net present value ("NPV") figure was determined. For example, how does the Total Value of \$82.784 result in a NPV of \$61.649. Please calculate and show all steps involved and provide all calculations and workpapers.

Response

In preparing the response to this information request, NSTAR Electric determined that the calculation of the NPV contains an input error in that it present-valued the total savings to 2003, rather than 2004. The Company is providing corrected Exhibits NSTAR-CAM-GOL-2 and NSTAR-COM-GOL-2 as attachments to this response. The result of this change is that the NPV of the savings for Cambridge customers is \$3.2 million; and \$3.1 million for Commonwealth customers.

The calculation of the NPV is done through the use of an Excel NPV function that applies to 2005 through 2026 at the specified discount rate and then adds the value in 2004 to avoid also discounting that value.

CAMBRIDGE ELECTRIC LIGHT COMPANY

Year	Transition Base Case		Transition Pittsfield Buyout		Customer Savings	
	Revenues		Revenues		Savings	
	Col.A	Col.B	Col.C	Col.D	Col.E	Col.F
2004	\$ 5.822	\$ 5.822	\$ -	\$ -	\$ -	\$ -
2005	20.631	23.414	\$ (2.783)	\$ (2.783)	\$ (2.783)	\$ (2.783)
2006	18.753	18.753	10.896	10.896	7.857	7.857
2007	15.669	15.669	13.794	13.794	1.875	1.875
2008	8.084	8.084	11.426	11.426	\$ (3.342)	\$ (3.342)
2009	1.258	1.258	1.258	1.258	\$ -	\$ -
2010	2.685	2.685	2.685	2.685	\$ -	\$ -
2011	1.080	1.080	1.080	1.080	\$ -	\$ -
2012	0.973	0.973	0.973	0.973	\$ -	\$ -
2013	0.876	0.876	0.876	0.876	\$ -	\$ -
2014	0.892	0.892	0.892	0.892	\$ -	\$ -
2015	0.891	0.891	0.891	0.891	\$ -	\$ -
2016	0.685	0.685	0.685	0.685	\$ -	\$ -
2017	0.750	0.750	0.750	0.750	\$ -	\$ -
2018	0.763	0.763	0.763	0.763	\$ -	\$ -
2019	0.752	0.752	0.752	0.752	\$ -	\$ -
2020	0.793	0.793	0.793	0.793	\$ -	\$ -
2021	0.998	0.998	0.998	0.998	\$ -	\$ -
2022	0.075	0.075	0.075	0.075	\$ -	\$ -
2023	0.101	0.101	0.101	0.101	\$ -	\$ -
2024	0.101	0.101	0.101	0.101	\$ -	\$ -
2025	0.066	0.066	0.066	0.066	\$ -	\$ -
2026	0.086	0.086	0.086	0.086	\$ -	\$ -
Total	\$ 82.784	\$ 82.784	\$ 79.177	\$ 79.177	\$ 3.607	\$ 3.607
NPV	\$ 66.408	\$ 66.408	\$ 63.203	\$ 63.203	\$ 3.206	\$ 3.206
Discount Rate	7.720%					
Discounted at Cambridge After Tax Discount Rate used in the Company's Restructuring Filing						

Sources:

Col: B from Exhibit NSTAR-CAM-GOL-3, Col.D  
Col: C from Exhibit NSTAR-CAM-GOL-4, Col.D  
Col: D = Col.B minus Col.D

Savings

COMMONWEALTH ELECTRIC COMPANY

Year	Base Case	Pittsfield	Customer
	Revenues	Buyout Revenues	Savings
2004	\$ 74,654	\$ 74,654	\$ -
2005	174,902	174,902	\$ -
2006	178,400	178,400	\$ -
2007	138,764	132,827	\$ 5,937
2008	98,448	100,622	\$ (2,174)
2009	76,608	76,608	\$ -
2010	76,096	76,096	\$ -
2011	75,796	75,796	\$ -
2012	76,565	76,565	\$ -
2013	74,217	74,217	\$ -
2014	76,517	76,517	\$ -
2015	75,539	75,539	\$ -
2016	58,196	58,196	\$ -
2017	14,584	14,584	\$ -
2018	5,357	5,357	\$ -
2019	5,094	5,094	\$ -
2020	5,030	5,030	\$ -
2021	5,321	5,321	\$ -
2022	2,803	2,803	\$ -
2023	1,160	1,160	\$ -
2024	0,404	0,404	\$ -
2025	0,265	0,265	\$ -
2026	0,345	0,345	\$ -
Total	\$ 1,295,065	\$ 1,291,302	\$ 3,763
NPV	\$ 891,737	\$ 888,636	\$ 3,100
Discount Rate	8.200%		
Discounted at Commonwealth After Tax Discount Rate used in the Company's Restructuring Filing			

Sources:

Col: B from Exhibit NSTAR-CAM-GOL-3, Col.D  
Col: C from Exhibit NSTAR-CAM-GOL-4, Col.D  
Col: D = Col.B minus Col.D



Information Request DTE-2-5

Refer to Exh. NSTAR-RBH at 18. The Company states it determined the total cost for the energy and capacity over the term of each Existing Pittsfield PPA.

- A) Does the Company receive products other than energy and capacity pursuant to each Existing Pittsfield PP A (i.e., reserves, ancillary services, etc.)?
- B) If the Company does receive such other products, please explain whether the costs for these products were included when calculating the cost of each Existing Pittsfield PPA.

Response

Pursuant to the existing Pittsfield PPAs, the Companies are entitled only to their percentage of the electric capacity and related energy produced by the Unit, which is included in the total costs for the units.

Information Request DTE-2-6

Refer to Exh. NSTAR-RBH at 26. The Company states the capacity factor for the Pittsfield Facility has recently averaged 27 percent.

- A) Provide the MWH delivered and the capacity factor for the years 1998 to 2003.
- B) Explain any significant change in the Pittsfield Facility's capacity factor between 1998 and 2003.

Response

- (A) Please refer to Attachment AG-1-10 for the monthly kWh purchases from Pittsfield for Cambridge Electric Light Company and Commonwealth Electric Company for the years 1998 to 2003. Please refer to Attachment AG-2-2 for the Pittsfield plant's monthly capacity factor for the years 1998 to 2003.
- (B) Please refer to the response to Information Request AG-2-1 for an explanation of the change in the Pittsfield unit's capacity factor for the period September 2003 through June 2004.

Information Request DTE-2-7

Refer to the Company's response to IR DTE-1-22. The Company states that the present value of the Pittsfield Termination Agreement amounts to \$71.8 million. Provide the present value of the next-most-attractive bid for Pittsfield under the 2003 Auction.

Response

Please refer to Exhibit NSTAR RBH-5. Only Pittsfield provided a final, binding bid on the existing Pittsfield PPAs.

Information Request DTE-2-8

Refer to Exh. NSTAR-RBH at 7. Were complaints lodged by any interested party regarding complete, uninhibited, and non-discriminatory access to data and information relating to the 2003 Auction? If so, please describe such complaint and its resolution.

Response

No complaints have been lodged by any interested party regarding complete, uninhibited, and non-discriminatory access to data and information relating to the 2003 Auction.

Information Request DTE-2-9

Refer to Exhs. NSTAR-RBH at 18 and NSTAR-GOL at 13. Please explain why the above market calculations relied on external data such as the Henwood forecast as opposed to internal data such as transfer prices.

Response

The Companies used the Henwood forecast in the calculation of the above-market costs of the PPA Entitlements because Henwood is an industry-known, independent third party that provided an impartial market forecast in which to complete a valuation of the above market costs. NSTAR Electric has used Henwood forecasts in previous years in the context of valuing restructured PPAs (see, e.g., Cambridge Electric Light Company, D.T.E. 01-94 (2002) re: approval of Amendment to Vermont Yankee PPA). Please also see the Companies' response to Information Request AG-3-10.

Information Request DTE-2-10

Refer to Exh. NSTAR-RBH-at 18. Please explain how the Henwood forecast was used. Was the Henwood forecast used to project the cost of the Existing Pittsfield PPAs, or was the Henwood forecast used to estimate the market cost of an equivalent amount of capacity and energy?

Response

Components of the Henwood forecast were used to project both costs of the underlying contract as well as the market value of energy and capacity associated with the Company's entitlements (see, e.g., Attachment AG-1-2 **CONFIDENTIAL** and the Companies response to Information Request AG-2-5). For example, the oil, coal and gas components of the Pittsfield contracts energy price index were based on Henwood projections, as were the projected market prices of the electricity that would be purchased in accordance with the PPAs.

Information Request AG-3-1

Please provide copies of all communications between the Companies (including all NSTAR employees and outside service providers) and the Department regarding the mitigation, sale, buydown or buyout of the Companies PPAs. If communication was only verbal, provide a summary of the discussions. Include dates and names of parties involved in the communications.

Response

Since electric restructuring, NSTAR Electric has engaged in extensive PPA mitigation efforts, which are summarized in Exhibit NSTAR-GOL, pages 7-11. See also Attachment DTE-1-35. With respect to the current mitigation activities, NSTAR Electric described the 2003 Auction process in D.T.E. 03-117, Exhibit BEC-JFL, pages 24-25 (Attachment AG-3-1(a)) and in D.T.E. 03-118, Exhibit CAM-COM-JFL, page 22 (Attachment AG-3-1(b)).

In addition, the Companies' described the outcome of the 2003 Auction to the Department on June 16, 2004. Attachment AG-3-1(c) **CONFIDENTIAL** is the PowerPoint presentation made on that date. Geoffrey O. Lubbock, Ellen Angley and Kerry Britland attended on behalf of the Companies. The following individuals attended on behalf of the Department: Commissioner James Connelly, Commissioner Robert Keating, Commissioner Dierdre Manning, General Counsel Andrew Kaplan, Kevin Brannelly, Sean Hanley, Jeanne Voveris and Barry Perlmutter.

Please note that portions of the information provided herewith are confidential, proprietary and competitively sensitive and is being provided subject to a Non-Disclosure Agreement between NSTAR Electric and the Attorney General and a forthcoming Motion for Protective Treatment of responses to the Department's and the Attorney General's Second Set of Discovery in this proceeding.



Attachment AG-3-1(c)

# Purchased Power Contracts

Ellen K. Angley  
Vice President, Energy Supply and Transmission

June 16, 2004





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## Background

- PURPA required Integrated Companies to Contract with Independent Power Producers
  - RFP based on “Avoided Costs”
- 1998 Restructuring:
  - Required Generation Divestiture
    - Generation Sold
    - Contracts Remain
  - Allows for Contract Payments Recovery through Transition Charge
    - Buyouts can be Securitized
- Phase II Restructuring Creates New Challenges & Opportunities



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## Contract Overview

- 21 Contracts
- Varying Lengths and Terms
  - Most have 10 – 15 years outstanding
- PV Contract Expense \$ 3.1 Billion
- PV Out of Market \$1.7 Billion
- Used to Supply Standard Offer Service

REDACTED



Above-Market Cost (PV \$M) NSTAR

Total \$1,763M

REDACTED

## Contract Restructuring

- Efforts to Date
  - Three previous auctions
  - Buyout of two contracts
  - Numerous attempts to renegotiate
- Positive Market Forces for Sale
  - Prices are high
    - High wholesale electric creates smaller market gaps
    - High gas creates marketing opportunities
  - Generators need cash and some are exiting merchant function



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## Auction Consultant

- July 2003: RFP for Independent Auction Consultant to conduct Auction & Evaluation
  - Proposals from 6 qualified bidders reviewed for
    - Cost
    - Completeness
    - Experience
- August 2003: Concentric Energy Advisers awarded Contract
  - Focused Experience in Energy Industry
  - Respected in the Industry



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## Auction Process & Timeline

- **September 2003:** Marketing materials to 90 Companies
- **October:** 25 Companies sign Confidentiality Agreements
  - 22 Receive Offering Memorandum
  - Due diligence begins
- **December 3:** 12 Companies bid
  - 3 Portfolio bids
  - 4 Counter-party bids
- **December 29:** 6 Companies informed of intent to proceed
- **January to May 2004:** Negotiations with bidders
- **April 14:** Bidding closed
- **June 2:** Pittsfield Termination Agreement executed
- **June 8:** Masspower Termination Agreement executed
- **On-Going:** Negotiations on 6 contracts covering 2 facilities
- **June to July:** Agreements and support analysis, testimony filed at MDTE

## Evaluation Criteria

- Customer Savings
  - Positive net present value savings
- Deal Structure Preference
  - Buy-Out by Owner
    - Eliminates counter party risk
  - Entitlement Transfer Agreement (ETA) to a third party
    - Requires NSTAR to remain a party through contract termination
  - Contract Restructuring
    - Continued energy purchase



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## Auction Results

### Four Buyouts/Restructurings

- **Pittsfield** – Immediate contract termination and buyout over time
- **Masspower** – Immediate contract termination and upfront buyout
- Still Under Negotiation:
  - Immediate contract termination and buyout over time
  - Restructuring
    - Above market portion of contract liquidated and paid out over time
    - Continued purchase power obligation at market rates, but NSTAR will liquidate at exact same market price eliminating future market risk





# Pittsfield – Fact Sheet

<u>Contracts</u>	<u>Company</u>	<u>MW</u>	<u>Term</u>	<u>Owners</u>
Pittsfield 1	Cambridge	24.3	2011	PG&E, GE holds the lease on the plant.
Pittsfield 2	Commonwealth	24.3	2011	
<b>Total</b>		48.6		

## Contract Restructuring:

The restructuring is a buyout over time starting October 1, 2004. Termination payments are made monthly on the first of the month at \$1,670,000 starting October 1, 2004 and running through December 1, 2008. Monthly payments, and customer savings, deferred until close.

## Economics

<u>Contract</u>	<u>Cost Obligation PV</u>	<u>NPV Out of Market</u>	<u>Restructure/ Buyout Cost</u>	<u>Savings \$ M</u>
Pittsfield 1	60.0	39.5	Consolidated	
Pittsfield 2	58.2	39.4		
<b>Total</b>	118.2	78.9	71.8	\$5.6



## Masspower – Fact Sheet

<u>Contracts</u>	<u>Company</u>	<u>MW</u>	<u>Term</u>	<u>Owners</u>
Masspower	BECo	100.0	2013	El Paso is in the process of selling the unit to AIG, other partners include Arclight Capital and NEGT (PGE) and Energy Investment Fund
Masspower 1	Commonwealth	25.7	2008	
Masspower 2	Commonwealth	25.7	2013	
<b>Total</b>		150.4		



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## Contractual Regulatory Requirements

- Contracts are subject to M.D.T.E. Approval
  - Including full cost recovery
- NSTAR is required to file agreements with in 30 days
- Terms of agreement include specific implementation deadlines
- Filing includes a request for a timely “decision” with specific deadlines to maintain and ensure terms of agreement



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## Regulatory Requirements

- Pittsfield Termination Agreement
  - NSTAR files on June 21<sup>th</sup>
    - Request DTE Order by September 7<sup>th</sup>
  - Finalize deal by October 1<sup>st</sup>
- Masspower Termination Agreement
  - NSTAR files on June 24<sup>th</sup>
    - Request DTE Order by Mid December
  - NSTAR files Securitization Application by September 6
    - Request DTE Order by Mid December
    - Finalize deal by April 1<sup>st</sup>

## Conclusion

- Transactions
  - Move us closer to complete divestiture
  - Mitigate stranded costs
- Quick regulatory review & approval is in the Customers' interest

Information Request AG-3-2

How did NSTAR select CEA to manage and administer the PPA auction? Please provide all related RFP materials, the RFP distribution list and all response evaluation materials, including bid revisions. If CEA was not selected as the result of a competitive bid, please explain why.

Response

CEA was selected through a competitive bidding process. The bid responses are attached, along with a summary of the responses to the RFP (see Attachment AG-3-2 **CONFIDENTIAL BULK**).

Please note that the information provided herein is confidential, proprietary and competitively sensitive and is being provided subject to a Non-Disclosure Agreement between NSTAR Electric and the Attorney General and a forthcoming Motion for Protective Treatment of responses to the Department's and the Attorney General's Second Set of Discovery in this proceeding.

Information Request AG-3-3

Please provide the names of CEA's board of directors for the years 1999-present.

Response

CEA was incorporated in January, 2002 with the following directors:

Robert Hevert  
Malcolm Ketchum  
Lisa Quilici

As of May 1, 2002, the Board of Directors consisted of:

John Reed  
Robert Hevert  
Malcolm Ketchum  
Lisa Quilici

As of May 24, 2002 through present, the Board of Directors consists of:

John Reed  
Robert Hevert  
Lisa Quilici  
John Slocum  
James Stephens

Information Request AG-3-4

What was the cost for outside services related to the 1999 auction? Provide the details by vendor by task. How were these costs recovered from customers (through which rate elements and over what specific period of time)? Provide a copy of the Department's order authorizing recovery of these costs.

Response

The Companies object to this question because it is beyond the scope of the present proceeding. However, in an effort to be responsive, Navigant/Reed Consulting Group, Inc. provided consulting services for the 1999 auction and the total costs for these services were in excess of \$750,000. The Companies also incurred legal costs regarding the auction. The Companies did not seek Department authorization to recover these costs from customers.



Information Request AG-3-6

Refer to Exhibit NSTAR-RBH-6 and NSTAR-GOL-2 (and supporting exhibits). Please recompute the NPV Savings assuming the Pittsfield plant produced electricity based on an average capacity factor equal to the average plant experience from the in service date through 1997. Provide all supporting calculations in the form of working electronic spreadsheet models. Provide all supporting documentation and assumptions.

Response

Please refer to the attached file for a calculation of an average capacity factor equal to the average plant experience from the in-service date through 1997. This average capacity factor is 90 percent. Please refer to the Companies' response to Information Request AG-3-5, where the calculation of this capacity factor has been applied to Exhibit NSTAR-RBH-6 **CONFIDENTIAL** and Exhibit NSTAR-GOL-2.

# Workpaper for AG-3-6

## Attachment AG-3-6

### Pittsfield Monthly Capacity Factors for Cambridge and Commonwealth

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Average 1994-1997
Cambridge														
1994	94%	86%	90%	87%	65%	103%	104%	99%	106%	83%	91%	88%	91%	90%
1995	88%	93%	90%	91%	86%	83%	100%	102%	82%	82%	92%	94%	90%	
1996	92%	91%	89%	70%	81%	99%	91%	104%	68%	90%	68%	87%	86%	
1997	93%	92%	85%	90%	88%	111%	105%	105%	95%	90%	95%	92%	95%	
1998	93%	91%	90%	90%	84%	104%	101%	103%	86%	90%	91%	92%	93%	
1999	95%	93%	93%	70%	86%	104%	98%	101%	87%	74%	76%	82%	88%	
2000	90%	88%	68%	72%	75%	99%	91%	97%	87%	89%	89%	91%	85%	
2001	89%	87%	80%	65%	79%	95%	102%	101%	86%	81%	76%	90%	85%	
2002	84%	89%	88%	65%	68%	85%	92%	98%	85%	91%	91%	94%	86%	
2003	95%	85%	70%	87%	89%	107%	107%	103%	32%	27%	26%	27%	70%	
2004	29%	26%	27%	26%	25%	29%							27%	
Commonwealth														
1994	94%	86%	90%	87%	65%	103%	104%	99%	106%	83%	91%	88%	91%	90%
1995	88%	93%	90%	91%	86%	83%	100%	102%	82%	82%	92%	94%	90%	
1996	92%	91%	89%	70%	81%	99%	91%	104%	66%	90%	68%	87%	86%	
1997	93%	92%	85%	90%	88%	111%	105%	105%	95%	90%	95%	92%	95%	
1998	93%	91%	90%	90%	84%	104%	101%	103%	86%	90%	91%	92%	93%	
1999	95%	93%	93%	70%	86%	104%	98%	101%	87%	74%	76%	82%	88%	
2000	90%	88%	68%	72%	75%	99%	91%	97%	87%	89%	89%	91%	85%	
2001	89%	87%	80%	65%	79%	95%	102%	101%	86%	81%	76%	90%	85%	
2002	84%	89%	88%	65%	68%	85%	92%	98%	85%	91%	91%	94%	86%	
2003	95%	85%	70%	87%	89%	107%	107%	103%	32%	27%	26%	27%	70%	
2004	29%	26%	27%	26%	25%	29%							27%	

Information Request AG-3-8

Please provide a copies of all Department orders approving the RFP which resulted in the Companies' original contract with Pittsfield, approving the original contract with Pittsfield and each contract amendment. Include any related orders on appeal by the Department and/or the courts.

Response

Please refer to the following orders:

- D.P.U. 89-113/89-119 (Attachment AG-3-8(a)) directing the Companies to modify their RFP which resulted in the Companies existing Pittsfield PPAs;
- D.P.U. 89-113-A/89-119-A (Attachment AG-3-8(b)) regarding the Companies' Motion for Reconsideration on D.P.U. 89-113/89-119; and
- D.P.U 91-142/153, which required the Companies to execute final PPAs with Pittsfield.

The Companies are presently seeking copies of letter orders issued by the Department: (1) approving the final RFP which resulted in the Companies' existing Pittsfield PPAs and (2) approving the amendments to the Pittsfield PPAs, and will provide them as soon as they are available.

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DEPARTMENT OF PUBLIC UTILITIES  
D.P.U. 89-113/89-119

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Docket No.: D.P.U. 89-113/89-119

Date: April 10, 1990

Parties: 89-113/89-119 [Cambridge Electric Light Co]

Investigation by the Department on its own motion into the filing made by Cambridge Electric Light Company pursuant to 220 C.M.R. 8.00, rules governing sales of electricity by small power producers and cogenerators to utilities and sales of electricity by utilities to small power producers and cogenerators. D.P.U. 89-119 Investigation by the Department on its own motion into the filing made by Commonwealth Electric Company pursuant to 220 C.M.R. 8.00, rules governing sales of electricity by small power producers and cogenerators to utilities and sales of electricity by utilities to small power producers and cogenerators.

Appearing:

D.P.U. 89-113/119

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# I. INTRODUCTION

On May 5, 1989, **Cambridge** Electric Light Company ("**Cambridge**") and Commonwealth Electric Company ("**Commonwealth**") (collectively, "**Companies**") submitted for approval to the Department of Public Utilities ("**Department**") their second request for proposals ("**RFP 2**") from qualifying facilities ("**QF**") desiring to sell electrical energy and capacity to the Company under long-term contracts pursuant to the solicitation and bidding procedure outlined in 220 C.M.R. 8.00 et seq. The Companies' RFPs are based on joint planning within the Commonwealth Energy System ("**COM/Energy**"), which includes **Cambridge**, **Commonwealth**, and **Canal Electric Company** ("**Canal**"). Each **RFP** includes a description of the size of the supply block that the Company is seeking through competitive pursuant; tables of the Company's long-run avoided costs or "ceiling prices"; a description of the project-ranking procedure; Long-run Standard Contract A for QFs selected through the bidding procedure; and Long-Run Standard Contract B for QFs of one megawatt ("**MW**") or less. The two Companies' RFPs are identical except for their ceiling price schedules and supply block sizes.

During the course of its investigation into this matter the Department issued four sets of information requests.[1] The

[1] The Companies' responses to these information requests will be referred to as DPU IR (set number)-(question number); DPU IR 2-3 is the Companies' response to the third question in the second set of information requests.

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Department received comments on the Companies' filing from the Executive Office of Energy Resources[2] ("Energy Office") on June 15, 1989 and revised comments on July 27, 1989. American Ref-Fuel ("Ref-Fuel") submitted comments on December 19, 1989. The Department's regulations require that each utility establish a supply block of capacity and energy to be purchased through the bidding process; the size of the supply block must equal the greater of the utility's next avoidable supply addition or 5 percent of the utility's annual peak load. 220 C.M.R. 8.05(2). **Cambridge** and Commonwealth have identified their next avoidable unit as a 116-MW combined-cycle unit. Based on each company's share of the Companies' coincident peak load, **Cambridge** has established a 28 MW supply block while Commonwealth has established an 88 MW supply block.

In calculating their individual supply blocks and ceiling prices, the Companies updated several parameter assumptions from the demand forecast and supply plan filed with the Energy Facilities Siting Council ("EFSC") in April 1988, to reflect new conditions (Appendix D, pp. 2-4): First, the Companies updated each company's avoided cost computation to reflect the January 1989, fuel price projections calculated by Data Resources, Inc. ("DRI"). Second, the Pilgrim nuclear generating unit is

[2] The Executive Office of Energy Resources is now the Energy Division of the Executive Office of Consumer Affairs.

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included in the Companies' supply plan through December 31, 1993.

Third, in-service dates of several QF units have been revised. Fourth, the supply plan includes new power purchase contracts approved from **RFP** 1. Finally, the Companies have secured short-term capacity from neighboring utilities. The Companies note that future capacity additions are discounted by 50 percent in the **RFP** supply plan to reflect uncertainty in the availability of future capacity additions.

## II. COMMENTS ON PROPOSED **RFP** 2

The Energy Office raises issues concerning the supply block, calculation of ceiling prices, **RFP**-threshold requirements, scoring of nonprice project characteristics, and the number of components in the price formula. The Energy Office supports the

50 percent discounting of future purchases from QFs and Hydro Quebec, but argues that Pilgrim should be included at 54 percent capacity and Seabrook should be eliminated from the supply plan (Energy Office Comments June 15 and July 27, 1989, pp. 2-3). The Energy Office also asserts that the Department of Environmental Protection ("DEP") precedent suggests that selective catalytic reduction ("SCR") technology would be required for plants with large capability (Energy Office Comments, p. 4). Since the next avoidable unit in Commonwealth's resource plan is 116 MW, the Energy Office contends that the Companies' avoided costs should

reflect the costs of including SCR on the avoidable combined cycle unit (Energy Office Comments, June 15, 1989, p. 4).

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The Energy Office supports the inclusion of reasonable and not overly restrictive threshold requirements to guard against unrealistic projects and it questioned if any threshold requirements were present in **RFP 2** (id., pp. 4-5). The Energy Office was concerned that the Companies' nonprice scoring system was so restrictive that larger and more cost-effective units would receive no points.

Ref-Fuel comments that Commonwealth's ranking criteria is a main concern. Ref-Fuel compares the ranking of Boston Edison Company ("BECo") and Eastern Edison Company ("EECo") to that of Commonwealth. According to Ref-Fuel, Commonwealth gives its highest ranking to projects in the 10 MW to 25 MW range (Ref-Fuel Comments, p. 1). Ref-Fuel contends this is unfair because projects over 25 MW are more cost-effective and are more beneficial to ratepayers (id.). Ref-Fuel contends that, as recognized by BECo and EECo, in their RFPs, Commonwealth should assign higher points to projects over 25 MW. In contrast to EECo, Ref-Fuel indicates that Commonwealth has given preference to fossil fuel units over renewable energy projects even though Massachusetts does not favor coal projects. Ref-Fuel, therefore, asserts that Commonwealth should reverse its ranking to favor renewable-fueled projects over fossil-fueled projects (id., p. 2). In addition, Ref-Fuel questions why Commonwealth's **RFP** gives preference to sites already being used to produce electricity when winners of BECo's and EECo's RFPs were located at new sites (id.). According to Ref-Fuel, expanding existing

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generation sites requires the same environmental siting requirements as new sites (id.). Therefore, Ref-Fuel contends that new sites that have acquired the necessary zoning and waste disposal permits should have equal number of points to those that are now being used for energy production (id.). Ref-Fuel also indicates that Commonwealth's **RFP** gives projects with dual-fuel capability more points than single-fuel units (id.). Ref-Fuel contends that renewable projects should not be penalized for using a single energy source (id.). Ref-Fuel claims that projects that produce hazardous wastes that have zoning for a

disposal site should not be penalized for simply producing hazardous waste as in Commonwealth's **RFP** (id.).

### III. ANALYSIS AND FINDINGS

After reviewing the Companies' filings, the Department has identified several areas of concern.

In Department Information Request 4-4, the Department asked the Companies to rerun their avoided costs using more appropriate assumptions about the Companies' supply plan including discounting Pepperell Power Associates and Hydro Quebec by 50

percent, excluding all future generating units from the supply plan, adjusting Pilgrim to a capacity factor of 54 percent, and assuming the new fuel cost projections by DRI in December 1989. The Department finds that the avoided costs based on this new supply plan are appropriate and the Companies should incorporate them accordingly in **RFP** 2.

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In response to Department Information Request 1-2, concerning the Companies' preference for generating units operated by fossil fuel rather than renewable fuel, the Companies claimed that its **RFP** ranking formula gave more points to fossil fuel units not derived from oil or gas to improve the generating system's fuel diversity. Commonwealth indicated that it has signed several power purchase agreements in recent years for gas-fired projects and does not want to run the risk of becoming overly dependent on one fuel source. The Department finds, however, that the reasoning made by the Companies is inappropriate since the use of renewable fuel generating units would also support fuel diversity. In their compliance filing, the Companies should change category 2 in section 5 to assign the highest rating to renewable fuel generating units.[3]

In response to the commenters' environmental concerns, the Department directs the Companies to consult with the DEP regarding what emissions assumptions DEP finds to be consistent with recent BACT determinations for various electrical generation facilities. In the compliance filing, the Companies should, to the extent possible, summarize those BACT assumptions in the **RFP** for informational purposes. As a threshold requirement, proposals must certify that those emissions

[3] We reject, however, Ref-Fuel's general assertion that the state has taken a position opposing the use of coal-fired facilities.

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requirements have been considered and that the developer believes that it can comply with all such requirements consistent with the terms of the proposal. Also, **Cambridge** and Commonwealth should include in the avoided cost calculations the cost of emission

control equipment consistent with the same BACT requirements as those being required of QFs.

In Department Information Request 3-1, the Department asked the Companies to clarify whether it intended to give preference to units with a size of 10 to 25 MW, or a bid of 10 to 25 MW in category 1 section 5 of the ranking criteria. Commonwealth responded that they intended to give preference to projects that bid 10 to 25 Mu. However, the Companies also refer to category 21 of that section, whereby the Companies give preference to those projects bidding their entire output to the Companies. In their compliance filing, Companies should further clarify category 1 of section 5 to state explicitly that a bid of 10 to

25 MW is preferred as opposed to a unit size of 10 to 25 MW.

In response to Department Information Request 3-3, Commonwealth explained that it does not support using strict threshold requirements but would rather allow all potential developers to submit proposals to the Companies. The Companies have one requirement: a value ratio. The ratio is calculated by dividing the present value of the costs avoided for a particular project by the present value of the expected payments, multiplied by 100. The value ratio must be greater than 100 for a bidder to enter the solicitation process. The

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Department finds that this threshold requirement is consistent with the Department's regulations, 220 C.M.R. 8.05(5)(d). The Department, nevertheless, is concerned with the possibility that some developers may submit bids for projects that have a very low probability of success and that those projects would displace highly viable projects. Although we commend the Companies' efforts to include a broad spectrum of projects, we direct the Companies to develop, in future RFP filings, threshold criteria that would better distinguish viable projects from those that have little probability of being operated successfully over their expected lives. The Department, however, directs the Companies to add the additional threshold requirements regarding BACT standards as discussed supra, p. 6.

Except as noted above, the Department finds that the Companies' filings comply with the Department's regulations.

#### IV. ORDER

Accordingly, after due consideration, it is

ORDERED: That Commonwealth Electric Company and **Cambridge** Electric Light Company shall modify their filings consistent with the findings and directives contained in this Order and shall within two weeks from the date of this Order, submit their revised RFPs for Department review and approval before their issuance.

By Order of the Department,  
/s/ ROBERT N. WERLIN  
Robert N. Werlin, Commissioner

A true copy  
Attest:

ROBERT N. WERLIN  
Commissioner

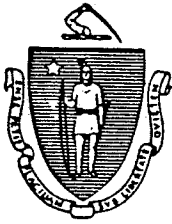
Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the secretary of the Commission within twenty days after the date of service of the



decision, Order or ruling of the Commission, or within such further time as to the Commission may allow upon request filed prior to the expiration of the twenty days after the date of service of said decision, Order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said court. (G.L. Ter. Ed., c. 25, s. 5, as most recently amended by c. 485 of the Acts of 1971)

End Of Decision



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC UTILITIES

Attachment AG-3-8(b)

May 31, 1990

D.P.U. 89-113-A

Investigation by the Department on its own motion into the filing made by Cambridge Electric Light Company pursuant to 220 C.M.R. 8.00, rules governing sales of electricity by small power producers and cogenerators to utilities and sales of electricity by utilities to small power producers and cogenerators.

D.P.U. 89-119-A

Investigation by the Department on its own motion into the filing made by Commonwealth Electric Company pursuant to 220 C.M.R. 8.00, rules governing sales of electricity by small power producers and cogenerators to utilities and sales of electricity by utilities to small power producers and cogenerators.

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ORDER ON MOTION FOR RECONSIDERATIONI. INTRODUCTION

On May 5, 1989, Cambridge Electric Light Company ("Cambridge") and Commonwealth Electric Company ("Commonwealth") (collectively, "Companies") submitted their second Requests for Proposals ("RFP") with the Department of Public Utilities ("Department"). Following its investigation, the Department issued an Order on April 10, 1990 directing the Companies to make specific changes to their RFP and to submit a compliance filing by April 24, 1990. On April 24, 1990, Cambridge and Commonwealth filed a motion for partial reconsideration by the Department.

II. REQUESTS FOR RECONSIDERATIONA. Pilgrim Nuclear Power Plant

In its Order, the Department declined to adopt the Companies' inclusion in their supply plans of Pilgrim at an assumed capacity factor of 70.6 percent and ordered the Companies to include Pilgrim with a capacity factor of 54 percent. Order, p. 5. In their motion for reconsideration, the Companies claim that Pilgrim's availability should be consistent with the Performance Incentive Program target assigned by the New England Power Pool ("NEPOOL") with a capacity factor of 70.6 percent.

Reconsideration of a previously decided issue is granted only when extraordinary circumstances dictate that we take a fresh look at the record for the express purpose of

substantively modifying a decision made after review and deliberation. A motion for reconsideration should bring to light previously unknown or undisclosed facts which would have a significant impact upon the decision already rendered. It should not attempt to reargue issues considered and decided in the main case. Western Massachusetts Electric Company, D.P.U. 87-260-A, pp. 2-3, citing Essex County Gas Company, D.P.U. 87-59-A, pages 1-2 (1988). The Department will also consider a motion for reconsideration when its treatment of an issue is arguably the result of mistake or inadvertence. New England Telephone and Telegraph Company, D.P.U. 86-33, p. 2 (1989), citing Western Union Telegraph Company, D.P.U. 84-119-B (1985).

The Companies have not presented any new evidence to justify reconsideration of our decision regarding Pilgrim, and Cambridge and Commonwealth have only attempted to reargue an issue considered and decided in the Order. Therefore, consistent with our standard on reconsideration, we reject the Companies' motion to reconsider the Pilgrim capacity factor assumption. As a result, Pilgrim should remain in the supply plan with a capacity factor of 54 percent.

B. Pepperell Power Associates

Cambridge and Commonwealth made specific assumptions regarding supply plans they used in calculating their avoided costs. The Companies discounted the capacity of their Qualifying Facility ("QF") power by 50 percent, except for

Pepperell Power Associates and Hydro Quebec. The Department found that this was inconsistent with Department precedent and ordered the Companies to discount Pepperell Power Associates and Hydro Quebec by 50 percent in the Companies' supply plans. Order, p. 5, citing Information Request 4-4.

In their motion, the Companies state that the Pepperell Power Associates facility began commercial operation on April 1, 1990 and should be included in the supply plan at its full capacity of 37.2 MW.

Based on the updated information presented by the Companies, the Department agrees that the Companies should include Pepperell Power Associates at its full capability in the supply plan.

C. Seabrook Nuclear Power Plant

In its Order, the Department directed Cambridge and Commonwealth to exclude the Seabrook nuclear power plant from their supply plans. Id., citing Information Request 4-4. The Companies argue that new developments occurred during the Department's review of the RFP filings. The Companies assert that in light of the now completed test-power phase, Seabrook should be included at full availability in the supply plan.

Applying the standard for reconsideration, the Department finds that the events surrounding Seabrook as indicated by the Companies do not constitute extraordinary circumstances that would alter the Department's decision. In light of the fact that Seabrook has not operated at full power, we reject the

Companies' motion to reconsider. Seabrook should remain excluded from the Companies' supply plan for the purpose of the RFP.

D. Bid-Ranking Procedure

In its Order, the Department directed the Companies to revise their bid-ranking procedure to assign the highest rating to renewable fuel generating units. Id., p. 6.

In their motion, the Companies assert that a larger portion of the Companies' supply will be provided by renewable fuel than by coal-fired sources (Motion, pp. 3-4; Appendix A). The Companies state that they are amenable to increasing the weighting of renewable-fuel units in their bid-ranking procedure, but request that for reasons of diversification the Department allow the Companies to assign priority to coal-fueled units in their bid-ranking procedure (Motion, p. 4).

Applying the standard for reconsideration discussed supra, the Companies on this issue merely reargue issues considered and decided in the Order. Accordingly, reconsideration of this issue is denied.<sup>1</sup>

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<sup>1</sup> The Companies misconstrued the Department's Order regarding the revision of the bid-ranking procedure. The Department ordered the Companies to assign a higher priority to renewable-fuel units, thereby equalizing the two fuel-types. The Companies should assign an equal number of points to renewable fuel and coal-fired facilities for the fuel diversity criterion. The Department agreed with the Companies that the use of renewable resources and coal alleviates the dependence on oil- and gas-fired facilities.

E. Best Available Control Technology

In its Order, the Department directed Cambridge and Commonwealth to consult with the Department of Environmental Protection ("DEP") concerning how to incorporate Best Available Control Technology ("BACT") into the RFP by summarizing BACT assumptions for informational purposes for use by RFP respondents in preparing their bids. Order, pp. 6-7. In addition, the Companies were directed to create a threshold requirement that proposals must certify that those emissions requirements have been considered and that the developer believes that it can comply with all such requirements consistent with the terms of the proposal. Id. Lastly, the Companies were directed to include the cost of air emissions control equipment, consistent with BACT requirements, in their avoided cost calculations. Id.

In their motion, the Companies state that these processes are time-consuming and request that "...the compliance to the Department's Order with regard to these matters be subject to practicability of doing so in a timely manner" (Motion, p. 4). The Department recognizes the Companies' argument that they intend to accomplish the previously stated directives in a timely manner. However, given that the materiality of the cost- and project-design implications of air-pollution control technology, and ready availability of information concerning the costs of such emissions control requirements, we are not persuaded by the Companies' arguments that compliance with our

directives cannot be accomplished in an efficient way. Therefore, we find that compliance with the directives in the Order should not prove to be burdensome or overly time-consuming. Applying the standard for reconsideration, described supra, the Companies on this issue merely reargue issues considered and decided in the main case. Accordingly, reconsideration for this issue is denied.

III. ORDER

Accordingly, it is

ORDERED: That Cambridge Electric Light Company's and Commonwealth Electric Company's motion for reconsideration is ALLOWED in part and DENIED in part; and it is

FURTHER ORDERED: That, pursuant to this Order, Cambridge Electric Light Company and Commonwealth Electric Company should file its compliance filing no later than June 30, 1990.

By Order of the Department,  
/s/ BERNICE K. McINTYRE  
Bernice K. McIntyre, Chairman

A true copy  
Attest:

MARY L. COTTRELL  
Secretary



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DEPARTMENT OF PUBLIC UTILITIES  
91-142/91-153

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Docket No.: 91-142/91-153

Date: September 6, 1991

Parties: 91-142/91-153 [Commonwealth Electric Co/Cambridge Electric]  
Petition of Altresco Lynn, Inc. and Altresco Pittsfield, L.P.  
requesting the Department of Public Utilities to review the actions of  
Commonwealth Electric Company and Cambridge Electric Light Company  
relative to the completion of power purchase contracts in accordance  
with the Department's regulations concerning the Requests for Proposals  
from Qualifying Facilities issued by the Companies. D.P.U. 91-  
153 Petition of Commonwealth Electric Company and Cambridge Electric  
Light Company for an exception to certain regulations of the Department  
concerning Qualifying Facilities.

Appearing: John A. DeTore, Esq.  
David S. Rosenzweig, Esq.  
Keohane, DeTore & Keegan  
21 Custom House Street  
Boston, Massachusetts 02210  
ALTRESCO LYNN, INC.,  
ALTRESCO PITTSFIELD, L.P.  
Petitioner

Michael F. Donlan, Esq.  
Edward R. Hill, Esq.  
Rich, May, Bilodeau & Flaherty, P.C.  
294 Washington Street  
Boston, Massachusetts, 02108  
COMMONWEALTH ELECTRIC COMPANY,  
CAMBRIDGE ELECTRIC LIGHT COMPANY  
Petitioner

John B. Howe  
MASSPOWER  
One Bowdoin Street  
Boston, Massachusetts 02114  
Intervenor

Christine Conostas Erickson, Esq.  
100 Cambridge Street, Suite 1500  
Boston, Massachusetts 02202  
COMMONWEALTH OF MASSACHUSETTS  
DIVISION OF ENERGY RESOURCES  
Intervenor

On June 20, 1991, Altresco Lynn, Inc. and Altresco **Pittsfield**, L.P. (jointly "Altresco") filed the following documents with the Department of Public Utilities ("Department") regarding the Second Request For Proposals From Qualifying Facilities ("RFP 2") of Commonwealth Electric Company and Cambridge Electric Light Company ("Companies"): Petition For Review, Motion For Preliminary Injunction, Motion For Temporary Restraining Order, Memorandum In Support Of Motions For Preliminary Injunction And Temporary Restraining Order, and Affidavit of Michael J. Armitage. The Department docketed Altresco's Petition and Motions as D.P.U. 91-142 and assigned Steven Halpern, Esq. as the hearing officer.

In its Petition For Review, Altresco asserts that the Companies have suspended contract-finalization activities for all members of the RFP 2 award group, including Altresco (Petition For Review, p. 2). Altresco asks the Department to find, among other things, that the Companies' actions violate the Department's regulations, and, therefore, to order the Companies to comply with those regulations by negotiating and finalizing power-purchase contracts with Altresco in keeping

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with the results of RFP 2 (id., pp. 3-4). In its Motions, Altresco requests the Department to grant it immediate relief from the Companies' actions (Motion For Preliminary Injunction; Motion For Temporary Restraining Order).

On June 28, 1991, the Department informed Altresco that the Commission would entertain oral argument on July 9, 1991 limited to Altresco's request for immediate relief, and gave the Companies until July 5, 1991 to file responsive pleadings (Letter of June 28, 1991 from Nancy Brockway, General Counsel, to Altresco and the Companies).

On June 28, 1991, the Companies filed the following documents with the Department: The Companies' Answer To The Petition For Review Filed By Altresco On June 20, 1991, The Companies' Response And Opposition To Motions For Preliminary Injunction And Temporary Restraining Order Filed By Altresco On June 20, 1991, The Companies' Petition For An Exception To Certain Regulations Of The

Department And Motion To Consolidate Proceedings ("Petition For An Exception").

In their Petition For An Exception, the Companies request the Department to exempt the Companies "from the procedural provisions of 220 C.M.R. 8.00 involving the negotiation and finalization of power sale agreements with members of the Petitioner's RFP Award Groups so as to allow the Companies the opportunity to complete their reassessment of the load forecast

D.P.U. 91-142/153

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projections and the avoided cost predictions contained in the RFPs" (Petition For An Exception), pp. 4-5). The Department docketed the Companies' Petition For An Exception as D.P.U. 91-153.

On July 3, 1991, Altresco filed an Answer In Response To Petition For An Exception of the Companies.

On July 5, 1991, in response to an oral request by the Hearing Officer, the Companies notified the other two members of the RFP 2 award group of the proceedings and of the scheduled oral argument in D.P.U. 91-142, and instructed them to contact the hearing officer if they wished to make an appearance (Letter of July 5, 1991, from Edward R. Hill, Jr. of the Companies to Thomas R. Smith of MASSPOWER and Richard M. Wagner of Waterbury Resource Recovery). On the same date, the Companies filed an Affidavit Of Hilary G. Sayer, Jr. In Support Of Petition Of The Companies.

At the July 9, 1991 hearing, Altresco and the Companies stipulated to the following facts:

In December, 1984, the Department of Public Utilities opened a generic rulemaking docket, D.P.U. 84-276, to review and amend the regulations governing the sales by small power producers and cogenerators in Massachusetts to electric utilities. In August, 1986, the Department adopted final regulations as 220 C.M.R. 8.00 et seq. to establish a competitive bidding RFP system to select among various QF proposals and to award winning bidders the opportunity for long-term power contracts.

D.P.U. 91-142/153

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On May 5, 1989, Commonwealth Electric Company and Cambridge Electric Light Company submitted for the Department's approval their second request for proposals from qualifying facilities. The companies' RFPs sought in total a supply block of 116 megawatts.

In July, 1990, the Department approved the company's RFPs with certain amendments, and shortly thereafter the companies published the RFPs with a ceiling price and a supply block that were approved by the Department.

In October, 1990, Altresco submitted three bids in response to the companies' RFPs. The three bids consisted of 25 megawatts from Altresco's currently operating **Pittsfield** facility to Commonwealth and Cambridge, and 25 megawatts from Altresco's proposed Lynn

cogeneration facility to Commonwealth. In sum, over 30 developers submitted bids totaling in excess of 1400 megawatts in response to the companies' RFPs.

In December, 1990, the companies announced their award groups based on the results of the self-scoring of the bids received.

On April 26th, 1991, after a bid-verification process, the companies announced the final award groups of their RFPs. Based on that process, all three of Altresco's bids were selected for inclusion in the companies' RFPs. Also in the companies' award groups were the bid proposals for MASSPOWER, on a conditional basis, and Waterbury Resource Recovery.

In early May, an orientation meeting was scheduled for May 21, 1991, between Altresco and the companies in order to meet the individuals who would be involved in contract negotiations and to

further discuss the two Altresco projects.

On May 21st, 1991, the orientation meeting was held among the parties. Both negotiating teams were introduced to each other and a general discussion of the projects ensued. Neither at nor before the meeting did the companies tender draft power contracts to Altresco nor did they indicate any forthcoming delay in contract-finalization activities.

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On May 31, 1991, Altresco was informed by the companies that they sought an approximately one-month hiatus in contract negotiations to reassess their load-growth and ceiling prices in light of current economic conditions, fuel prices, and forecasted demand.

In early June, 1991, several phone calls were exchanged among the parties to determine whether their differences could be resolved. A meeting was scheduled for and held on June 13, 1991, to attempt to reach an accommodation among the parties. At that meeting Altresco informed the companies that any delay would have a serious impact on the development for the Lynn project. The companies informed Altresco that they were conducting their reassessment in order to determine whether immediate commencement of contract discussions would be in the best interests of their ratepayers.

From June 13 to June 20, 1991, various correspondence was exchanged between the parties in a further attempt to resolve their differences. However, such attempts were unsuccessful.

Thereafter, on June 20, 1991, Altresco filed its petition with the Department and motions for relief that are the subject of the present proceeding.

(Tr. I, pp. 5-8)

Each party then presented arguments regarding Altresco's request for immediate relief. During their presentation, the Companies indicated that they were willing to negotiate with Altresco while the Department considered the Companies' request for an exception to the Department's regulations (Tr. I, pp. 56-60). In accepting the Companies' offer, Altresco stated that its request for immediate relief was no longer pertinent (id, p. 64). It then moved for summary judgment on its

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Petition For Review (id., pp. 105-108).

On July 11, 1991, the Companies filed a Response To Motion For Summary Judgment Made By Altresco And **Amendment** To Petition For An Exception To Certain Regulations Of The Department.

On July 12, 1991, the Commission, sitting en banc, found as follows:

The Department grants the June 28, 1990 motion of Commonwealth Electric Company and Cambridge Electric Light Company (hereinafter to be identified jointly as the "Companies") to consolidate their Petition for an Exception to Certain Regulations of the Department, also filed on June 28, 1990 and docketed as D.P.U. 91-153, with the instant docket, D.P.U. 91-142.

On July 11, 1991, the Companies submitted an **amendment** to their Petition for Exception, requesting that the Department grant "them an exception from the substantive requirements of 220 C.M.R. 8.00 with respect to the members of their RFP Award Groups". The Department hereby denies the Companies' request on the grounds that it lacks sufficient specificity. The Companies' **amendment** fails to state the substantive requirements of 220 C.M.R. 8.00 from which the Companies wish to be granted an exception. Nor does it state the obligations from which the Companies wish to be excused. An exception to the Department's regulations will be granted only under extraordinary circumstances and then only if the exception is narrowly drawn so as to result in the minimum departure from the regulations necessitated by the circumstances. The Companies' **amendment** does not meet this standard and therefore must be rejected.

Our rejection of the Companies' **amendment** leaves their original request for an exception intact. We now turn to that request.

The Department finds that where a person makes a request under 220 C.M.R. 8.07(03) to be exempted from obligations imposed the Department's regulations, that person must remain in compliance with the regulations until its request is granted. Thus, the request must be filed and approved by the Department prior to the taking of any action that would otherwise be in conflict with the obligations from which the party has

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requested exemption. In short, relief under 220 C.M.R. 8.07(03) may be granted only prospectively and the Department's regulations remain in force until the Department grants an exception to the contrary. In this case, the Companies notified Altresco Lynn, Inc. and Altresco **Pittsfield**, L.P (hereinafter to be identified jointly as "Altresco") "that there would be a hiatus with respect to negotiations regarding power sales agreements" (Companies' Petition, p. 3) prior to the Companies' submission of a request to the Department for exception from its obligation under 220 C.M.R. 8.00 to negotiate and finalize said power agreements. Accordingly, the Department denies the Companies' Petition for an Exception on the grounds that it was untimely filed.

At the hearing held in this docket on July 9, 1991, Altresco stated that its Motions for Preliminary Injunction and For Temporary Restraining Order were no longer pertinent. The Department agrees and interprets Altresco's statement as withdrawing them from the Department's consideration.

At the same hearing, Altresco requested that the Department rule on its Petition for Review based on the filings and arguments received in this case without further investigation and therefore without opening a formal adjudicatory proceeding. That request is denied.

The Department hereby opens an investigation into Altresco's petition. This investigation will be identified by the instant Docket number and will incorporate the pleadings, affidavits, motions and arguments that have been entered into D.P.U. 91-142 so far with the exception of Altresco's Motions for Preliminary Injunction and for Temporary Restraining Order.

Because of the clear need to expeditiously resolve the issues in this case, it will proceed on a highly accelerated schedule. That schedule will be as follows:

On Monday, July 15, 1991, the petitioner will notice all the participants and intervenors in the RFP 2 process, and the Attorney General of the Commonwealth of Massachusetts that any one wishing to intervene or otherwise participate in this proceeding must contact the hearing officer by July 17, 1991.

All further filings, prefiled testimony, motions and the like relating to this case will be due at the Department on July 19, 1991. The Department will determine whether

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further hearings will be required on July 21, 1991. (Tr. II, pp. 2-6)

On July 19, 1991, the Companies filed the following documents:

Motion For A Public Hearing, Motion For A Procedural Exception ("Motion for an Exception"), and the testimony of Harold N. Scherer, Jr., Hilary G. Sayer and Steven A. Brav. Altresco filed a Memorandum In Support Of Summary Judgment on the same day.

Two parties have requested permission to intervene in the present proceeding: MASSPOWER and the Commonwealth of Massachusetts Division of Energy Resources. Both requests are hereby granted.

## II. POSITIONS OF THE PARTIES

### A. Altresco

In its Memorandum In Support Of Summary Judgment, Altresco argues that the Companies have admitted to sufficient facts for the Department to find them in violation of its regulations relating to the RFP process. It also argues that, since these are the only facts material to Altresco's request for summary judgment<sup>1</sup>, Altresco is entitled, as a matter of law, to relief

<sup>1</sup> At the time Altresco submitted its Memorandum In Support of Motion For Summary Judgment, the Companies had not yet renewed their request for an exception to 220 C.M.R. 8.00 et seq.

Therefore, Altresco did not address this issue in its memorandum. However, it had addressed it earlier in the proceedings in its Memorandum In Support Of Motions For Preliminary

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in the form of an Order by the Department requiring the Companies to negotiate in good faith, and to finalize and execute power-purchase contracts with Altresco (Memorandum In Support Of Motion For Summary Judgment).

#### B. The Companies

The Companies do not contest Altresco's assertion that Department regulations (220 C.M.R. 8.00 et seq.) require them to negotiate and finalize power-purchase contracts with Altresco (see, Petition For An Exception and Motion for An Exception). Nor do the Companies contest the fact that they have refused to finalize such power-purchase contracts with Altresco Tr. I, pp. 5-8, 74-75). Rather, the Companies' position is that the Department should relieve them from the requirements of 220 C.M.R. §8.00 pursuant to 220 C.M.R. §8.07(3) ("[t]he Department may, where appropriate, grant an exception from any provision of these regulations").

The Companies appear to base their request for exception on two assertions. First, the Companies claim that the "anticipated demand for electric capacity and energy in the

Injunction and Temporary Restraining Order and in its oral arguments where it had argued that to accept the Companies request for an exception and thereby allow the Companies to renege on their obligations after the fact would destroy the

Department's competitive resource procurement process and undermine confidence in the integrity of the Department's regulatory procedures (Memorandum In Support Of Motions For Preliminary Injunction and Temporary Restraining Order, pp. 7-9; Tr. I, pp. 24-28).

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future will be substantially lower than that originally projected in the forecasts on which the avoided cost data included in RFP 2 were based" (Direct Testimony of Harold N. Scherer, Jr., p. 8) and, as a result, execution of power-purchase contracts with Altresco in accordance with the outcome of RFP 2 will require the Companies to pay a price above the Companies' avoided cost as calculated from the Companies' new projections (id., p. 9). Second, they claim that unless the Department grants the Companies an exception from its regulations, the Companies will be prevented by the Department's regulations from negotiating an agreement with Altresco that would terminate the Companies' obligation to enter into power-purchase agreements with Altresco (Motion For Procedural Exception, paras. 6-9).

## III. Analysis and Findings

The Department's regulations and precedent recognize the use of summary judgment when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. 220 C.M.R. 1.06(6), Hull Municipal Light Plant, D.P.U. 87-19-A, p. 25 (1990).

The Department's RFP regulations require, at a minimum, that an electric utility execute its Long-Run Standard Contract with an RFP award group member upon the award group member's request. 220 C.M.R. 8.05(6)(g). As Altresco correctly points out, the Department interprets these regulations as also requiring an electric utility to negotiate with members of an

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award group in good faith in order to finalize and execute a power purchase contract (Memorandum In Support Of Motions For Preliminary Injunction And Temporary Restraining Order, pp. 5-6; Memorandum In Support Of Summary Judgment, p. 4).

Since the parties agree that Altresco is a member of the Companies' RFP 2 award group, the Companies' unilateral suspension of efforts to finalize power-purchase contracts with Altresco in accordance with RFP 2 violates the Department's regulations. The only thing that stands in the way of summary judgment in favor of Altresco is the Company's Motion For An Exception from the effects of 220 C.M.R. sec. 8.00.

The Company's Motion For An Exception is very similar to its amended Petition For An Exception in that it fails to explicitly state the relief the Companies wish the Department to grant them. It appears that the Companies wish to be allowed to terminate their obligations to enter into power-purchase contracts with Altresco,

after which the Companies apparently intend to negotiate some level of compensation for Altresco's resulting loss.

As will be apparent from the discussion that follows, it is not necessary for us to address the accuracy of the Companies' newly projected forecast of demand in order to rule on their Motion For An Exception. Therefore, further "public evidentiary hearings" are unnecessary and the Companies' request for such hearings is denied.

One of the central purposes of the Department's competitive

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resource procurement process, of which the RFP process is a part, is to eliminate the non-price barriers that in the past have restricted the development of non-utility alternatives for the cost-effective generation of electricity. See, D.P.U. 84-276-A, pp. 6, 76 (1985). If the Department were not to require electric utilities to negotiate in good faith and finalize power-purchase contracts with the members of an RFP award group, the RFP process would be unable to achieve this fundamental purpose. Without this requirement, an RFP award group winner would be in the same position after the RFP process as it would have been in had it negotiated with the utility outside the RFP process. In short, without the assurance of finality that this requirement gives, the RFP process would be seriously undermined. Thus, if this



requirement is to be abrogated, there must be a truly extraordinary change in circumstances that will adversely effect the long-term interests of ratepayers.

The Department expects that there will be times when, due to changes in economic conditions, a company's projection of its future demand will not call for purchasing new capacity, and/or the calculation of its avoided costs will change. Nonetheless, the Department has determined that it is in the long-term interest of ratepayers to maintain a market in generation. It has, therefore, determined that each utility shall offer a supply block of at least 5 percent of its current annual peak

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load for RFP bidding. 220 C.M.R. sec. 8.05(2); D.P.U. 84-276-B, p. 31 (1985).

Similarly, the Department expects that, also as a result of ordinary variations in economic conditions, a utility's projection of its future demand, and, therefore, its calculation of its avoided cost, in many cases will vary between the issuance of an RFP and the finalization of contracts with that RFP's award group. However, we do not believe that such variations in economic conditions, by themselves, are sufficient to justify an exception to a utility's duty to meet its obligations under the RFP process. In its Order regarding the pre-approval of non-QF projects, the Department stated the appropriate balance between the risk and reward to be borne by ratepayers and developers in project pre-approval.

We have found that risks of escalating construction and O&M should be borne by management, that management should bear the risk of poor unit performance, and that ratepayers should shoulder the risk of insufficient demand, fuel price volatility and decreased costs of alternatives. This apportionment fairly allocates risk and reward, and provides optimal incentives to efficient management.

D.P.U. 86-36-C, p. 87 (1988).

The Department continues to believe that this balance fairly and appropriately apportions the risks and rewards associated with the development of new generation resources, and that such a balance is necessary in order to create the conditions under which an independent market in generation can survive and provide economically efficient energy resources over the

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long-term.

The RFP process is a pre-approval process[2], and the long-term interests of ratepayers are best served by applying the same apportionment of risks between ratepayers and developers to it as apply to any other form of pre-approval. In the case before us, this means that ratepayers, and not the developers who are the members of the award group, bear the risk of changed demand. As a result, such a change in demand, by itself, is an insufficient

reason for granting the Companies' request for an exception.

The Department's regulations are designed to protect both parties in this regard. Thus, we find that just as the Department's regulations prevent a member of the award group from changing its price bid once it has been submitted (220 C.M.R. 8.05(6)(b)), they prevent a utility from modifying the terms of the RFP once it has been issued. Neither the award group nor the utility may escape its obligations by asserting that the economy has changed since it made its offer.

The Companies claim, as their second basis for exception, that they cannot negotiate a fair resolution to the problem of their changed demand forecast unless the Department grants them

[2] In the Orders leading to the implementation of a pre-approval process for non-QF projects, the Department recognized that the PURPA regulations in 220 C.M.R. 8.00 et seq. themselves established a limited pre-approval process. D.P.U. 86-36-A, pp. 84-85 (1988); D.P.U. 86-36-C, p. 58 (1988).

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an exception from their obligation under the Department's regulations (Motion For An Exception, paras. 6-9)). We fail to see why this is so. The Department does not read its regulations as forbidding a utility from negotiating a release from the obligations it has incurred through the RFP process, though any such release would be subject to Departmental approval. If, as the Companies claim, it is possible to compensate Altresco for the

losses it would suffer as a result of not going ahead with the contracts provided for in RFP 2 (id. paras. 4, 6) and at the same time save ratepayers future expense (id., para. 4), it would appear to be possible to reach a settlement that would benefit all concerned parties. Indeed, from the Department's point of view, the Companies may be under an obligation to pursue such a settlement.

Accordingly, the Department finds that the Companies have advanced an insufficient basis for their request for an exception from the obligations of 220 C.M.R. 8.00 et seq. The Companies' Motion For An Exception is therefore denied and Altresco's Motion For Summary Judgment is granted.

#### IV. ORDER

Accordingly, after due notice, hearing, and consideration, the Department

ORDERS: The Companies to fulfil the obligations imposed on them by 220 C.M.R. 8.00 regarding Altresco and RFP 2, specifically their obligations to bargain in good faith and to

D.P.U. 91-142/153

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finalize and execute power-purchase contracts in keeping with RFP 2.

By Order of the Department,  
/s/ BARBARA KATES-GARNICK

Barbara Kates-Garnick, Commissioner

A true copy

Attest:

MARY L. COTTRELL

Secretary

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).

End Of Decision

Information Request AG-3-9

Refer to the Companies' response to AG-1-3. Please provide the invoices for the outside legal services and all supporting documentation.

Response

Please see Attachment AG-3-9. Communications between the Companies' counsel and the Companies represented on the invoices have been redacted because they are privileged attorney-client communications, as they are communications: (1) between the Companies and the Companies' counsel; (2) providing legal advice relating to possible litigation; and (3) made exclusively to the Companies, with an expectation that such communications would not be disclosed to others. See Upjohn Co. v. United States, 449 U.S. 383, 389 (1981).

## KEEGAN, WERLIN &amp; PABIAN, LLP

ATTORNEYS AT LAW  
265 FRANKLIN STREET  
BOSTON, MASSACHUSETTS 02110-3113

Attachment AG-3-9

TELECOPIERS:

(617) 951-1400

(617) 951-1354

(617) 951-0586

For Professional Services  
Rendered through  
January 31, 2004

NSTAR  
PO Box 990228  
800 Boylston Street, 17th Floor  
Prudential Center  
Boston, MA 02199-0228

Attn: Stephen Gray

Page: 1

Invoice # 18451

April 3, 2004

Re: PPA Divestiture/Restructuring  
I.D. 242-00008

Date	Description of Services	Hours	Amount
Robert N. Werlin			
01-05-04			
		2.3	747.50
01-06-04			
		0.2	65.00
01-06-04			
		0.4	130.00
01-09-04			
		1.5	487.50
01-12-04			
		3.8	1,235.00
01-13-04			

**REDACTED**

NSTAR

Page 2  
Invoice # 18451

Re: PPA Divestiture/Restructuring  
I.D. 242-00008

Date	Description of Services	Hours	Amount
		1.3	422.50
01-16-04			
		0.9	292.50
01-19-04			
		1.8	585.00
01-20-04			
		0.4	130.00
01-21-04			
		1.2	390.00
01-22-04			
		0.3	97.50
01-26-04			
		0.5	162.50
01-28-04			
		0.2	65.00
01-29-04			
		0.3	97.50
01-30-04			
		0.5	162.50
Subtotal for Robert N. Werlin		15.6	5,070.00
David S. Rosenzweig			
01-12-04			
		0.5	150.00

NSTAR

Page 3  
Invoice # 18451

Re: PPA Divestiture/Restructuring  
I.D. 242-00008

Date	Description of Services	Hours	Amount
01-16-04		0.4	120.00
01-20-04		0.4	120.00
01-23-04		1.5	450.00
Subtotal for David S. Rosenzweig		2.8	840.00
Stephen August			
01-23-04		3.5	787.50
01-25-04		7.3	1,642.50
Subtotal for Stephen August		10.8	2,430.00
Jack Habib			
01-06-04		0.8	168.00
01-19-04		1.4	294.00
Subtotal for Jack Habib		2.2	462.00
Total Professional Services		31.4	\$ 8,802.00
Total Current Fees			8,802.00
Total Current Amount Due			8,802.00
Total Due			\$ 8,802.00

KEEGAN, WERLIN & PABIAN, LLP

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265 FRANKLIN STREET  
BOSTON, MASSACHUSETTS 02110-3113

TELECOPIERS:

(617) 951-1354

(617) 951-1400

(617) 951-0586

For Professional Services  
Rendered through  
February 29, 2004

NSTAR  
PO Box 990228  
800 Boylston Street, 17th Floor  
Prudential Center  
Boston, MA 02199-0228

Attn: Stephen Gray

Page: 1

Invoice # 18475

April 5, 2004

Re: PPA Divestiture/Restructuring  
I.D. 242-00008

Date	Description of Services	Hours	Amount
02-01-04	Robert N. Werlin		
		0.4	130.00
02-02-04		0.7	227.50
02-03-04		0.5	162.50
02-04-04		0.4	130.00
02-12-04		1.3	422.50
02-20-04		0.8	260.00
02-23-04		2.6	845.00



NSTAR

Page 2  
Invoice # 18475

Re: PPA Divestiture/Restructuring  
I.D. 242-00008

Date	Description of Services	Hours	Amount
02-24-04		0.3	97.50
02-25-04			
		1.4	455.00
Subtotal for Robert N. Werlin		8.4	2,730.00
Stephen August			
02-02-04			
		5.7	1,282.50
02-03-04	<b>REDACTED</b>		
		4.5	1,012.50
Subtotal for Stephen August		10.2	2,295.00
Total Professional Services		18.6	\$ 5,025.00
Total Current Fees			5,025.00
Total Current Amount Due			5,025.00
Total Due			\$ 5,025.00

KEEGAN, WERLIN & PABIAN, LLP

ATTORNEYS AT LAW  
265 FRANKLIN STREET  
BOSTON, MASSACHUSETTS 02110-3113

TELECOPIERS:

(617) 951-1400

(617) 951-1354

(617) 951-0586

For Professional Services  
Rendered through  
March 31, 2004

NSTAR  
PO Box 990228  
800 Boylston Street, 17th Floor  
Prudential Center  
Boston, MA 02199-0228

Attn: Stephen Gray

Page: 1  
Invoice # 18723  
May 10, 2004

Re: PPA Divestiture/Restructuring  
I.D. 242-00008

Date	Description of Services	Hours	Amount
Robert N. Werlin			
03-01-04		0.2	65.00
03-02-04		0.4	130.00
03-08-04		3.1	1,007.50
03-09-04		0.4	130.00
03-11-04	<b>REDACTED</b>	0.2	65.00
03-29-04			
		3.4	1,105.00
Subtotal for Robert N. Werlin		7.7	2,502.50

David S. Rosenzweig

03-29-04

NSTAR

Page 2  
Invoice # 18723

Re: PPA Divestiture/Restructuring  
I.D. 242-00008

Date	Description of Services	Hours	Amount
	<b>REDACTED</b>	0.7	210.00
		-----	-----
	Subtotal for David S. Rosenzweig	0.7	210.00
		-----	-----
	Total Professional Services	8.4	\$ 2,712.50
		=====	=====
	Total Current Fees		2,712.50
			-----
	Total Current Amount Due		2,712.50
			-----
	Total Due		\$ 2,712.50
			=====

KEEGAN, WERLIN & PABIAN, LLP

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TELECOPIERS:

(617) 951-1354

(617) 951-1400

(617) 951-0586

Tax ID: 04-3335747

For Professional Services  
Rendered through  
April 30, 2004

NSTAR  
PO Box 990228  
800 Boylston Street, 17th Floor  
Prudential Center  
Boston, MA 02199-0228

Attn: Stephen Gray

Page: 1  
Invoice # 18892  
June 2, 2004

Re: PPA Divestiture/Restructuring  
I.D. 242-00008

Date	Description of Services	Hours	Amount
Robert N. Werlin			
04-02-04			
		0.7	227.50
04-03-04			
		0.2	65.00
04-06-04			
		0.8	260.00
04-07-04			
		0.4	130.00
04-09-04			
		0.8	260.00
04-10-04			
		1.6	520.00

**REDACTED**

NSTAR

Page 2  
Invoice # 18892

Re: PPA Divestiture/Restructuring  
I.D. 242-00008

Date	Description of Services	Hours	Amount
04-12-04			
		3.9	1,267.50
04-13-04			
		0.2	65.00
04-14-04			
		0.5	162.50
04-15-04			
	<b>REDACTED</b>		
		1.0	325.00
04-20-04			
		1.5	487.50
		-----	-----
Subtotal for Robert N. Werlin		11.6	3,770.00
Jack Habib			
04-02-04			
		3.2	672.00
04-07-04			
		2.6	546.00
04-12-04			
		0.3	63.00
04-13-04			

NSTAR

Page 3  
Invoice # 18892

Re: PPA Divestiture/Restructuring  
I.D. 242-00008

Date	Description of Services	Hours	Amount
		2.7	567.00
04-28-04			
	<b>REDACTED</b>	4.8	1,008.00
04-29-04		1.8	378.00
04-30-04			
		6.6	1,386.00
Subtotal for Jack Habib		22.0	4,620.00
Total Professional Services		33.6	\$ 8,390.00
Total Current Fees			8,390.00
Total Current Amount Due			8,390.00
Total Due			\$ 8,390.00

KEEGAN, WERLIN & PABIAN, LLP

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TELECOPIERS:

(617) 951-1354

(617) 951-1400

(617) 951-0586

Tax ID: 04-3335747

For Professional Services  
Rendered through  
May 31, 2004

NSTAR  
PO Box 990228  
800 Boylston Street, 17th Floor  
Prudential Center  
Boston, MA 02199-0228

Attn: Stephen Gray

Page: 1  
Invoice # 19042  
June 15, 2004

Re: PPA Divestiture/Restructuring  
I.D. 242-00008

Date	Description of Services	Hours	Amount
Robert J. Keegan			
05-11-04			
	<b>REDACTED</b>	3.4	1,275.00
05-19-04		0.8	300.00
		-----	-----
	Subtotal for Robert J. Keegan	4.2	1,575.00
Robert N. Werlin			
05-01-04			
		0.5	162.50
05-04-04			
		0.8	260.00
05-06-04			

NSTAR

Page 2  
Invoice # 19042

Re: PPA Divestiture/Restructuring  
I.D. 242-00008

Date	Description of Services	Hours	Amount
		0.7	227.50
05-07-04		0.6	195.00
05-09-04		0.3	97.50
05-10-04		0.3	97.50
05-12-04		0.3	97.50
05-14-04			
		1.1	357.50
05-16-04		4.4	1,430.00
05-17-04		1.8	585.00
05-18-04			
		3.5	1,137.50
05-19-04			

**REDACTED**



NSTAR

Page 3  
Invoice # 19042

Re: PPA Divestiture/Restructuring  
I.D. 242-00008

Date	Description of Services	Hours	Amount
		5.4	1,755.00
05-20-04			
		0.7	227.50
05-21-04			
		1.2	390.00
05-23-04			
		1.3	422.50
05-24-04			
		0.5	162.50
05-25-04			
		2.2	715.00
05-26-04			
		4.7	1,527.50
05-27-04			
		0.8	260.00
05-28-04			
		1.7	552.50
05-31-04			

**REDACTED**

NSTAR

Page 4  
Invoice # 19042

Re: PPA Divestiture/Restructuring  
I.D. 242-00008

Date	Description of Services	Hours	Amount
		3.6	1,170.00
		-----	-----
	Subtotal for Robert N. Werlin	36.4	11,830.00
	David S. Rosenzweig		
05-14-04		0.7	210.00
05-19-04		0.4	120.00
		-----	-----
	Subtotal for David S. Rosenzweig	1.1	330.00
	Jack Habib		
05-03-04			
		0.2	42.00
05-04-04			
		2.7	567.00
05-05-04		2.8	588.00
05-06-04			
		3.8	798.00
05-10-04		0.2	42.00
05-11-04		6.2	1,302.00

**REDACTED**

NSTAR

Page 5  
Invoice # 19042

Re: PPA Divestiture/Restructuring  
I.D. 242-00008

Date	Description of Services	Hours	Amount
05-12-04			
		4.3	903.00
05-13-04			
		0.3	63.00
05-14-04			
		1.2	252.00
05-16-04		0.2	42.00
05-17-04			
		0.6	126.00
05-19-04	<b>REDACTED</b>		
		1.2	252.00
05-20-04			
		0.9	189.00
05-21-04			
		3.4	714.00
05-24-04			
		3.1	651.00
05-25-04			
		1.8	378.00

NSTAR

Page 6  
Invoice # 19042

Re: PPA Divestiture/Restructuring  
I.D. 242-00008

Date	Description of Services	Hours	Amount
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05-26-04

3.8	798.00
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05-27-04

1.4	294.00
-----	--------

05-28-04

**REDACTED**

2.1	441.00
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Subtotal for Jack Habib

40.2	8,442.00
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Total Professional Services

81.9	\$ 22,177.00
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Total Current Fees

22,177.00

Total Current Amount Due

22,177.00

Total Due

\$ 22,177.00

Information Request AG-3-12

Please provide the monthly FTR/ARR revenues related to the Pittsfield contract received by each of the Companies. How (through which rate elements) and when (over what time period) have these revenues been flowed through to customers? What is the estimated annual FTR/ARR revenue level for the years 2004-2011? Please provide all documentation, calculations and assumptions supporting the estimates.

Response

There are no monthly Financial Transaction Rights ("FTR") or Auction Revenue Rights ("ARR") revenues related to the Pittsfield contract that were received by either of the Companies. FTRs are a financial product created through an auction process, conducted by ISO-NE, to allow successful FTR bidders to acquire, or FTR holders to sell, the rights to congestion revenues. ARRs are rights to receive FTR auction revenues from the sale of FTRs and are virtually all allocated to Load Serving Entities. Under Standard Market Design ("SMD"), the Companies have assigned their Standard Offer Service ("SOS") and Default Service ("DS") load assets to successful third party suppliers. As a result, the Companies have neither received any ARRs nor bid in the FTR market. For the years 2004-2011, the Companies will assign their DS load obligations to third party suppliers and will not receive any FTR/ARRs.

Information Request AG-3-13

Refer to the Companies' response to DTE-1-22. Please explain in detail, citing specific contract terms, how the "post-2008" avoided cost or market pricing is to be determined. Is this pricing energy only and therefore would not include capacity costs? If yes, isn't it possible that the Companies could use their entitlement to offset capacity and reserve requirements imposed on LSEs by the ISO? Provide all documentation supporting the response.

Response

Per the terms of the existing agreement, Appendix B.1 the price for capacity and energy is equal to each of the Companies' actual avoided cost for capacity and actual avoided cost for energy pursuant to each of the Companies' Rate P-1. Therefore, the market price is for both capacity and energy and not energy only. If the Companies were to retain the Pittsfield contracts, the entitlements could be used to offset capacity and reserve requirements imposed on Load Serving Entities. The calculation of above-market costs using the Henwood forecast included both energy and capacity and therefore fully accounted for the value of the contract.

Information Request AG-3-15

Refer to the second contract amendment of the contract dated November 21, 1996. Please explain why this amendment was entered into. Under what conditions did the Companies anticipate entering into the "Short-term Power Purchases" detailed in section 6.4.

Response

The second amendment of the contract dated November 21, 1996 was to allow Pittsfield and the Companies to mutually agree to enter into transactions, which do not fit within the specific terms of the existing Agreements when it is beneficial for both parties to do so. Specifically, the amendment allowed for the parties to take advantage of potential gas/electric arbitrage opportunities.

The general guidelines for executing a proposed transaction were for Pittsfield to notify the Companies with the proposed terms of a transaction. The dollar amount which Pittsfield would pay to the Companies for the right to restrict the facility's output plus the contract energy payments, which the Companies would avoid due to the plants reduced output would be available to the Companies to purchase replacement energy. Money left over after the purchase of replacement energy would serve to reduce the cost of energy purchased from Pittsfield and thereby benefit customers.

As noted in the Companies' response to Information Request AG-2-22, there have been no agreements entered into between the parties pursuant to Section 6.4 of the second contract amendment.

Information Request AG-3-16

Please provide a listing that shows the history (names and dates) of the ownership of the Pittsfield plant from the in-service date through the present. Indicate whether the current owner is solvent. If the ownership history is different from the operator history; please provide the history of the operators.

Response

The following information has been provided to the Companies by Pittsfield relative to the ownership and operation of the plant.

From the in-service date to September 24, 1990, the owner and operator of the Pittsfield plant was Pittsfield Generating Company, L.P. (f/k/a Altresco Pittsfield, L.P.) ("PGC"). From the in-service date to the present, PGC was owned by Altresco, Inc. and Pittsfield Partners, Inc. In addition, since December 22, 2003, PE-Pittsfield, LLC has acted as the general partner of PGC.

From September 24, 1990 to the present, the owner/lessor of the Pittsfield plant has been U.S. Bank National Association (as successor to State Street Bank & Trust Company as successor to Fleet National Bank as successor to Shawmut Bank Connecticut, N.A. as successor to The Connecticut National Bank), as Owner Trustee for the benefit of the following owner participants: (a) from September 24, 1990 to June 18, 2001, TIFD III-F, Inc. and (b) from June 18, 2001 to present, SFG CLA Pittsfield, LLC. The owner is solvent.

From September 24, 1990 to the present, the lessee/operator of the Pittsfield plant has been PGC.



NSTAR Electric  
Department of Telecommunications and Energy  
D.T.E. 04-60  
Information Request: **AG-3-17**  
August 2, 2004  
Person Responsible: Geoffrey O. Lubbock/Robert B. Hevert  
Page 1 of 1

Information Request AG-3-17

Please provide copies of all communications (written, electronic or verbal) between the Companies (or CEA or other Company representatives) and Altresco (and/or its representatives) during the 2003 RFP process.

Response

Please refer to Attachment AG-1-5 **CONFIDENTIAL BULK**.

Information Request AG-3-18

Refer to the Companies' responses to AG-1-1 and AG-1-10. The attachments to AG-1-1 indicate that no resolution of certain disputes had been reached as of February 13, 2004 and that the parties had agreed to meet to discuss the issues. Please explain whether further discussions took place and if so, provide copies of all notes, memoranda or other documentation of the meetings or later communications. Please provide any and all support, including written expert opinions, for the Companies' decision not to pursue any of their contract dispute positions through mediation, arbitration or through the courts prior to negotiating the buyout.

Response

The Companies met with Pittsfield one time after February 13, 2004, but reached no resolution regarding the matters referenced in Attachment AG-1-1(u) and (v).

The Companies are in possession of a legal opinion regarding the matter. However, the Companies are not producing the opinion in response to this information request because the communication is a privileged attorney-client communication in that the opinion is: (1) between the Companies and the Companies' counsel; (2) providing legal advice relating to possible litigation; and (3) was made exclusively to the Companies, with an expectation that such communications would not be disclosed to others. See Upjohn Co. v. United States, 449 U.S. 383, 389 (1981).